

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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USCA Docket Number:

USDC Docket Number : 04-cv-30014

The Mercy Hospital, Inc.,

v.

Massachusetts Nurses Association

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**CLERK'S CERTIFICATE**

I, Sarah A Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 4/5/05.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on April 7, 2005.

Sarah A. Thornton, Clerk of Court

By: *Jeanette Ramos*  
Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled  
case is hereby acknowledged this date: 4/7/05.

*D. Barchard*  
\_\_\_\_\_  
Deputy Clerk, US Court of Appeals

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Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: \_\_\_\_\_

APPEAL

United States District Court  
District of Massachusetts (Springfield)  
CIVIL DOCKET FOR CASE #: 3:04-cv-30014-MAP

The Mercy Hospital, Inc. v. Massachusetts Nurse Association

Assigned to: Judge Michael A Ponsor  
Cause: 09:0010 Petition to Vacate Arbitration Award

Date Filed: 01/23/2004  
Jury Demand: None  
Nature of Suit: 790 Labor: Other  
Jurisdiction: Federal Question

**Plaintiff**

**The Mercy Hospital, Inc.**

represented by **Maurice M. Cahillane, Jr.**  
Egan, Flanagan & Cohen, PC  
67 Market Street  
PO Box 9035  
Springfield, MA 01102-9035  
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mmcahillane@eganflanagan.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**Massachusetts Nurse Association**

represented by **Alan J. McDonald**  
McDonald & Associates  
Suite 210  
Cordaville Office Center  
153 Cordaville Road  
Southborough, MA 01772  
508-485-6600  
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*LEAD ATTORNEY  
 ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
01/23/2004	31	COMPLAINT against Massachusetts Nurse Association by The Mercy Hospital, Inc. filed. Filing fee of \$150.00 paid. Receipt number 305485. CF, LR 4.1, notice of lawsuit and waiver of service of summons to Counsel.(Finn, Mary) (Entered: 01/26/2004)
02/26/2004	32	ANSWER to Complaint by Massachusetts Nurse Association. (Lindsay, Maurice) (Entered: 02/27/2004)
03/15/2004	33	Judge Michael A Ponsor : ORDER entered REFERRING CASE to Magistrate Judge Kenneth P. Neiman Referred for: Scheduling Conference(French, Elizabeth) (Entered: 03/15/2004)
03/17/2004	34	NOTICE of Scheduling Conference Scheduling Conference set for 4/23/2004 at 10:00 AM in Courtroom 3 before Magistrate Kenneth P. Neiman; cc/cl. (Finn, Mary) (Entered: 03/17/2004)
04/21/2004	35	JOINT SUBMISSION pursuant to Local Rule 116.5(D) by Massachusetts Nurse Association, The Mercy Hospital, Inc. filed.(Finn, Mary) (Entered: 04/21/2004)
04/23/2004	36	Electronic Clerk's Notes for proceedings held before Judge Kenneth P. Neiman : Scheduling Conference held on 4/23/2004. Order to issue. (Court Reporter CD Recorder.) (Stuckenbruck, John) (Entered: 04/23/2004)
04/23/2004	36	CERTIFICATE OF CONSULTATION by Maurice M. Cahillane Jr. on behalf of The Mercy Hospital, Inc.. (Lindsay, Maurice) (Entered: 04/26/2004)

04/26/2004	37	Judge Kenneth P. Neiman : SCEDULING ORDER entered. Pltf's motion to vacate arbitration award due by 6/15/2004. Deft's resp. to motion and cross motion to enforce the arbitration award due 7/02/2004. Pltf's resp. to D's cross motion due 7/19/2004; cc/cl.(Finn, Mary) (Entered: 04/26/2004)
04/27/2004	38	CERTIFICATE OF CONSULTATION 16.1(D)(3) by Mark A. Hickernell, Alan J. McDonald on behalf of Massachusetts Nurse Association. (Lindsay, Maurice) (Entered: 04/27/2004)
06/10/2004	39	MOTION for Extension of Time to 6/30/04 to File summary judgment motion and brief by The Mercy Hospital, Inc. (Lindsay, Maurice) (Entered: 06/14/2004)
06/14/2004	40	Magistrate Judge Kenneth P. Neiman. ELECTRONIC ORDER denying without prejudice 9 Motion for Extension of Time to File Summary Judgment Motion and Brief, ENTERED, cc:cl. Denied for failure to comply with Local Rule 7.1(a)(2). (Healy, Bathaney) (Entered: 06/14/2004)
06/14/2004	410	Pltf's motion to ext. time to 6/30/2004 to file its motion for S/J and brief in support filed.(Finn, Mary) (Entered: 06/14/2004)
06/14/2004	41	Magistrate Judge Kenneth P. Neiman. ELECTRONIC ORDER granting 10 Motion for Extension of Time to file Summary Judgment motion, ENTERED, cc:cl. Plaintiff's motion shall be filed by no later than June 30, 2004, with Defendant's cross-motion and opposition to Plaintiff's motion due by July 16, 2004. Plaintiff's opposition to the cross-motion, along with any reply brief, shall be filed by no later than August 2, 2004. (Healy, Bathaney) (Entered: 06/14/2004)
06/30/2004	411	Ptf's MOTION to Vacate Arbitration Award by The Mercy Hospital, Inc. (Lindsay, Maurice) (Entered: 07/01/2004)
06/30/2004	412	BRIEF in Support of Ptf's 11 MOTION to Vacate Arbitration Award filed by The Mercy Hospital, Inc. (Attachments: # 1 Exhibit# 2 Exhibit# 3 Exhibit# 4 Exhibit# 5 Exhibit)(Lindsay, Maurice) (Entered: 07/01/2004)
07/14/2004	413	Deft's motion to ext. time to 7/22/2004 to resp. to the Pltf's motion to vacate Arbitration Award by Massachusetts Nurse Association filed.(Finn, Mary) (Entered: 07/14/2004)
07/15/2004	4	Judge Kenneth P. Neiman : electronic ORDER entered granting 13 Defendant's Motion for Extension of Time to July

		22, 2004, to respond to Plaintiff's motion, to which Plaintiff may respond by August 9, 2004. So ordered. (Neiman, Kenneth) (Entered: 07/15/2004)
07/21/2004	314	Deft. Massachusetts Nurse Associations's motion to ext. time to 7/23/2004 (one day) to resp. to the Pltf's 11 MOTION to Vacate filed by fax.(Finn, Mary) (Entered: 07/21/2004)
07/21/2004	3	Judge Kenneth P. Neiman : ELECTRONIC ENDORSED ORDER entered granting the Deft's 14 to ext. time to 7/23/2004 to resp. the the Pltf's 11 MOTION to Vacate. Deft's Resp. due by 7/23/2004; cc/cl. (Finn, Mary) (Entered: 07/21/2004)
07/23/2004	3	Notice of correction to docket made by Court staff. Correction: Doc. #15 Deleted because it is Duplicate of Doc. # 14. (Stuckenbruck, John) (Entered: 07/23/2004)
07/23/2004	315	Dft's Cross-MOTION to confirm arbitration award by Massachusetts Nurse Association.(Lindsay, Maurice) (Entered: 07/26/2004)
07/23/2004	316	Dft's MEMORANDUM in Opposition to Ptf's 11 MOTION to Vacate arbitration award filed by Massachusetts Nurse Association. (Lindsay, Maurice) (Entered: 07/26/2004)
07/23/2004	317	AFFIDAVIT of Mark A. Hickernell re 15 MOTION to confirm arbitration award, 16 Memorandum in Opposition of Ptf's motion to vacate arbitration award by Massachusetts Nurse Association. (Attachments: # 1 Exhibit 1# 2 Exhibit 2) (Lindsay, Maurice) (Entered: 07/26/2004)
08/06/2004	318	MOTION for Extension of Time to 8/23/04 to File Reply Brief, by The Mercy Hospital, Inc., filed.(Healy, Bethaney) (Entered: 08/06/2004)
08/06/2004	3	Magistrate Judge Kenneth P. Neiman. ELECTRONIC ORDER granting 18 Motion for Extension of Time to File Reply Brief, ENTERED, cc:cl. Reply brief due by 8/23/04. (Healy, Bethaney) (Entered: 08/06/2004)
08/23/2004	319	Ptf's REPLY BRIEF and Opposition to 15 MOTION to confirm arbitration award filed by The Mercy Hospital, Inc. (Lindsay, Maurice) (Entered: 08/24/2004)
09/03/2004	320	Judge Michael A Ponsor : ORDER entered REFERRING MOTION 11 MOTION to Vacate filed by The Mercy

		Hospital, Inc., <u>15</u> MOTION to confirm arbitration award filed by Massachusetts Nurse Association to Magistrate Judge Kenneth P. Neiman(French, Elizabeth) (Entered: 09/03/2004)
09/16/2004	②1	NOTICE of Hearing on Motion <u>11</u> MOTION to Vacate, <u>15</u> MOTION to confirm arbitration award: Motion Hearing set for 10/13/2004 at 2:00 PM in Courtroom 3 before Magistrate Kenneth P. Neiman; cc/cl.(Finn, Mary) (Entered: 09/16/2004)
10/13/2004	②	Electronic Clerk's Notes for proceedings held before Magistrate Judge Kenneth P. Neiman: Motion Hearing held on 10/13/2004 re <u>11</u> MOTION to Vacate filed by The Mercy Hospital, Inc., <u>15</u> MOTION to confirm arbitration award filed by Massachusetts Nurse Association. Attorney Cahillane appears for Plaintiff; Attorney Hickernell for Defendant. Arguments heard. Motions taken under advisement with report and recommendation to issue. Parties to report within two weeks regarding settlement. (Court Reporter digital.) (Olin, Nathan) (Entered: 10/13/2004)
11/02/2004	②2	STATUS REPORT in letter form by The Mercy Hospital, Inc. re: case unable to settle at this time filed. (Finn, Mary) (Entered: 11/03/2004)
01/13/2005	②3	Judge Kenneth P. Neiman : Electronic ORDER entered. REPORT AND RECOMMENDATIONS re <u>11</u> MOTION to Vacate filed by The Mercy Hospital, Inc., <u>15</u> MOTION to confirm arbitration award filed by Massachusetts Nurse Association, Recommendation: that the plaintiff's motion to vacate be DENIED and that the defendant's motion to confirm be ALLOWED. Objections to R&R due by 2/2/2005 (Stuckenbruck, John) (Entered: 01/13/2005)
01/13/2005	③	Case no longer referred to Magistrate Judge Kenneth P. Neiman. (Healy, Bethaney) (Entered: 02/28/2005)
02/02/2005	②4	Pltf's Objection to the <u>23</u> Report and Recommendation re: Pltf's motion to vacate and Deft's motion to confirm arbitration award. by The Mercy Hospital, Inc. filed. (Attachments: # <u>1</u> # <u>2</u> # <u>3</u> # <u>4</u> )(Finn, Mary) Additional attachment(s) added on 2/3/2005 - page 22 to section four added - page did not scan) (Finn, Mary). Modified on 2/3/2005 (Finn, Mary). (Entered: 02/03/2005)
02/18/2005	②5	Deft's Resp. in opposition to the Pltf's <u>24</u> Objection to Report and Recommendations filed. (Finn, Mary) (Entered:

		02/22/2005)
02/18/2005	26	Deft's MOTION to Strike the Pltf's 24 Objection to Report and Recommendations, by Massachusetts Nurse Association filed. (Finn, Mary) (Entered: 02/22/2005)
02/18/2005	27	Deft's MEMORANDUM in Support of its 26 MOTION to Strike the Pltf's 24 Objection to Report and Recommendations, by Massachusetts Nurse Association filed. (Finn, Mary) (Entered: 02/22/2005)
03/04/2005	28	Pltf's Opposition to the Deft's 26 MOTION to Strike 24 Objection to Report and Recommendations, by The Mercy Hospital, Inc. filed.(Finn, Mary) (Entered: 03/07/2005)
03/09/2005	29	Judge Michael A Ponsor : MEMORANDUM AND ORDER entered denying 26 Motion to Strike objection, denying 11 Motion to Vacate Arbitration award, granting 15 Motion to confirm the arbitration award, and adopting Report and Recommendations re 23 Report and Recommendations. See the attached memo & order for complete details. cc/cl (Lindsay, Maurice) (Entered: 03/09/2005)
03/09/2005	30	Judge Michael A Ponsor : ORDER entered. JUDGMENT in favor of Massachusetts Nursing Association against The Mercy Hospital, Inc.,(Lindsay, Maurice) (Entered: 03/09/2005)
04/05/2005	31	Pltf's NOTICE OF APPEAL as to 29 Memorandum and Order on Motion to Strike,, Order on Motion to Vacate,, Order on Motion for Miscellaneous Relief,, Order on Report and Recommendations, 30 Judgment of Dismissal by The Mercy Hospital, Inc. filed. Filing fee of \$255.00 not paid. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at <a href="http://www.ca1.uscourts.gov/clerks/transcript.htm">http://www.ca1.uscourts.gov/clerks/transcript.htm</a> MUST be completed and submitted to the Court of Appeals. Appeal Record due by 4/25/2005. (Finn, Mary) (Entered: 04/05/2005)
04/05/2005	3	Original file and docket sheet forwarded to the Appeals Clerk. (Finn, Mary) (Entered: 04/05/2005)